

11.2 Change of Plea Hearing Before Magistrate Judge.

- (a) **Hearing.** With the assigned district judge's and the parties' consent, a magistrate judge may hold a change of plea hearing in:

- (1) a felony case; or
- (2) a misdemeanor case requiring consent but in which the parties did not consent to trial, judgment, and sentencing by a magistrate judge.

If the magistrate judge at the hearing finds that the defendant's written or oral consent to proceed with the change of plea before the magistrate judge is knowing and voluntary, the magistrate judge conducts the change of plea hearing. The magistrate judge must inquire about the existence and understanding of the terms of any plea agreement but may not accept or reject a plea agreement.

- (b) **Findings of Fact and Recommendation.** The magistrate judge must state on the record findings concerning the guilty plea's knowing and voluntary nature, the adequacy of the factual basis for the plea, and any other relevant matter, and must recommend to the district judge whether the guilty plea should be accepted. If there is a plea agreement, the magistrate judge must also recommend to the district judge whether the plea agreement should be rejected, accepted, or taken under advisement until sentencing. A transcript of the hearing must be prepared and filed with the clerk.
- (c) **Objection to Recommendation.** Unless the judge extends or shortens the time, any objection to the magistrate judge's recommendation must (1) be in writing, (2) specify the parts of the findings or recommendation objected to, and (3) be filed and served within 14 days after the filing of the plea transcript. See NECrimR 59.2(a).
- (d) **District Judge's Review.** The district judge must conduct a de novo review of the magistrate judge's recommendation regarding the proposed plea and issue an appropriate order. The district judge may defer acceptance of the plea agreement until sentencing. In conducting this review, the district judge may reconduct or refer back to the magistrate judge all or part of the plea hearing, affirm or set aside any finding by the magistrate judge, and make additional findings.